

## SUPPORTING STATEMENT

Standards 71.403, 71.404, 75.1712-4 and 75.1712-5, Application for Waiver of Surface Facilities Requirement (pertaining to coal mines)

### A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Title 30 CFR Sections 71.400 through 71.402 and 75.1712-1 through 75.1712-3 require coal mine operators to provide bathing facilities, clothing change rooms, and sanitary flush toilet facilities in a location that is convenient for use of the miners. If the operator is unable to meet any or all of the requirements, he/she may apply for a waiver. 30 CFR Sections 71.403, 71.404, 75.1712-4 and 75.1712-5 provide procedures by which an operator may apply for and be granted a waiver. Applications are filed with the District Manager for the district in which the mine is located and contain the name and address of the mine operator, name and location of the mine, and a detailed statement of the grounds upon which the waiver is requested.

Waivers for surface mines may be granted by the district manager for a period not to exceed one year. If the waiver is granted surface mine operators may apply for an annual extensions of the approved waiver. Waivers for underground mines may be granted by the district manager for the period of time requested by the underground mine operator as long as the circumstances that were used to justify granting the waiver remain in effect.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information is used to determine if the conditions at a mine make it impractical for the mine operator to provide the required sanitary facilities. The mine operator submits the request for a waiver to the MSHA district in which the mine is located. The district uses this information in determining if the conditions at a mine justify granting the waiver. If the waiver is granted this information serves as written documentation that the mine operator is not required to comply with the applicable part(s) of the standard(s) covered by the waiver.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection

techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

No improved information technology has been identified that would reduce the burden, however in order to comply with the Government Paperwork Elimination Act mine operators may submit applications for waivers or extensions and retain the records in whatever method they chose, which may include utilizing computer technology.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

Since the application is for the purpose of formally stating the operator's desire to waive specific requirements of these regulations, the information in the request for a waiver would not be available in similar information, nor would it duplicate existing information.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

The provisions of the Federal Mine Safety and Health Act of 1977 (Mine Act), and MSHA regulations and standards apply to all operations, regardless of size, because accidents, injuries, and illnesses can occur at any mine regardless of size. Congress intended that the Mine Act be enforced at all mining operations within its jurisdiction regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Mine Act. However, Congress did recognize that small operations may face problems in complying with some Mine Act provisions. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses when obtaining any information under the Act. This information collection does not have a significant impact on a substantial number of small entities.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Applications for waivers are made at the option of the mine operator. Without this information, MSHA would require mine operators to comply with the requirements of the standard.

Requiring mine operators to comply with the standard, where conditions at the mine justify granting a waiver, would pose an unnecessary burden on the affected mine operators.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;

Surface mine operators requesting a waiver are only required to provide the information on an annual basis. Underground mine operators are only required to submit the initial request for a waiver. If conditions warrant that the waiver be granted the waiver may be granted for the period of time requested by the underground mine operator.

- \* requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;

There is no time limit restrictions placed on the respondents. However, the final decision to grant approval of the waiver can only be made once the respondent provides all the required information to the MSHA district.

- requiring respondents to submit more than an original and two copies of any document;

Respondents are not required to submit more than the original and two copies of any information included in the request for a waiver.

- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;

There is no requirement that the respondent keep the record for more than three years. The waivers and extensions are granted for a 1 year period for surface mines and for the period of time requested by the mine operator for underground mines. Mine operators would only be required to retain the latest action documenting the current status of the waiver.

- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

The information is not provided in a statistical format and is not designed to produce results that can be generalized in any studies.

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

The information does not include any statistical data classification.

- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use;

The information does not include any confidential information.

- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

The information does not include any proprietary information, trade secrets, or information of a confidential nature. The requirements are consistent with the guidelines in 5 CFR 1320.5.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

MSHA will publish the proposed information collection requirements in the Federal Register, notifying the public that these information collection requirements are being reviewed in accordance with the Paperwork Reduction Act of 1995, and giving interested persons 60 days to submit comments.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

MSHA has decided not to provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided to respondents.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

MSHA's records show that in FY 2000, approximately 124 surface coal mine operators applied for a waiver of the sanitary facilities and 314 surface coal mine operators requested an extension of a previously approved waiver. In addition, 108 underground coal mine operators applied for a waiver of the sanitary facilities and no underground coal mine operators applied for an extension of a previously approved waiver. This amounts to approximately 232 initial waiver applicants and 314 applications of extensions of previously approved waivers.

MSHA estimates that it would take each respondent approximately 30 minutes to complete the initial application for a waiver, 20 minutes prepare a request for an extension of a previously approved waiver, and an additional 10 minutes (0.1667) in each case for clerical processing. Each application is typically performed by mine management personnel earning an hourly rate of \$54.53 and clerical personnel earning \$20.18 per hour (Based on salaries reported in the U.S. Coal Mine Salaries, Wages, & Benefits - 2000 Survey Results).

**Initial Waiver Requests**

$$\begin{array}{rcl}
 232 \text{ (108 underground + 124 surface)} & & \\
 \quad \times 0.3333 \text{ (20 minutes)} & & = 77 \text{ hours} \\
 77 \text{ hours} \times \$54.53 & = & \$4,198.81
 \end{array}$$

In addition, 10 minutes of this work is performed by clerical personnel.

$$\begin{array}{rcl}
 232 \times 0.1667 \text{ (10 minutes)} & & = 39 \text{ hours} \\
 39 \text{ hours} \times \$20.18 & = & \underline{\$ 787.02} \\
 \text{Total costs} & = & \$4,986.83
 \end{array}$$

**Request for Extension of Waiver**

314 extensions X 0.1667 (10 minutes) = 52 hours  
 52 hours X \$54.53 = \$2,835.56

In addition, 10 minutes of this work is performed by clerical personnel at an hourly rate of \$20.18.

314 extensions X 0.1667 (10 minutes) = 52 hours  
 52 hours X \$20.18 = \$ 1049.36

Category	Applications	Minutes	Salary	Total Cost	Total Burden Hours
Initial for management	232	20	\$ 54.53	\$ 4,199	77
Initial for clerical		10	\$ 20.18	\$ 787	39
Extension for management	314	10	\$ 54.53	\$ 2,836	52
Extension for clerical		10	\$ 20.18	\$ 1,049	52
<b>TOTALS</b>	<b>546</b>	<b>///////</b>	<b>///////</b>	<b>\$ 8,871</b>	<b>* 221</b>

\* Discrepancies due to rounding.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of an hour burden shown in Items 12 and 14).

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There are no capital and or start-up costs associated with the collection of this information. There are no costs associated with the operation and maintenance of services associated with this information that is not included above.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

MSHA estimates that it would take a Health specialists, GS-12 step 5, earning a hourly wage of \$26.19 about 6 minutes (0.1000 hour) to process each application.

546 applications x 0.1000 hour = 55 hours x \$26.19 per hour  
salary = \$1,440.45

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

The decrease of 163 burden hours (from 384 to 221) is due to a decrease in the number of initial waiver requests and the number of requests for extensions.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

MSHA does not intend to publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There are no forms associated with this information collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

## **B. Collections of Information Employing Statistical Methods**

This collection of information does not employ statistical methods.

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